

1887-048 Chancery Causes: John D. S. Russell & wife vs. E. S. Bishop &
Lee Co.

Pridemore, Jesse, Thompson

CA-Estate Dispute
T-Property

Will: 1862 : Elijah Bishop : Lee County

To the Hon. John A. Kelly Judge of
the Circuit Court of Lee County
Virginia:

Your Complainants
John D. J. Russell and Rebecca J.
Russell his wife, respectfully rep-
resent, that your female Complain-
ant, was before her marriage

Rebecca J. Bishop a daughter of
the late Elijah Bishop now deceased,

The said Elijah Bishop before
his death, made and published his
last will and Testament, which
was duly admitted to record on the 16
day of June 1862. A copy of this
will so recorded is herewith filed marked
"A." and is prayed to be considered here-
with as part hereof. By an in-
spection of this paper, it will be
seen that among other things that said
testator gave and bequeath unto Elijah
J. Bishop and Isaac J. Bishop, one half
of said testators land, for which the
legates thereof were to decently support
and maintain their mother during her
life; also Nancy H. Bishop and your
female Complainant so long as they
remained single; He also gave them the

the said Elijah D. & Isaac T. all his the
said Testator's personal property that
was necessary to such support and
maintenance - He then gave them the use
of the other half of his said land or
sufficient personal property and
farming utensils to pay off all the
testator's said indebtedness - The res-
idue of his property he then directs
to be equally divided between Mary
D. Jesse or her heirs, Elisha Bishop,
J. P. Bishop, Nancy W. Bishop, Levina
Bishop, Lucy Thompson and your
female Complainant; He then makes
a conditional bequest to Robert P.
Bishop - He then makes an additional
bequest to Nancy W. Bishop and to your
female Complainant he bequeaths a
good horse and saddle a good cow and
bed. He then appoints the said Elijah
D. and Isaac T. Bishop as executors
thereof - Isaac T. qualifies and
gives Bonds with James H. Muncy
E. T. Devault and Francis Bishop as
his securities - James H. Muncy went into
Bankruptcy, and has removed from
the County, E. T. Devault is dead
and his estate worthless as is also

Maui Bishop. A few years ago
Isaac T. Bishop removed from this
Commonwealth, never having settled
his executorial account - and Elijah D.
Bishop qualified as administrator de
bonis non of said estate, and has
never settled his account.

Both Isaac T. Bishop and Elijah D.
Bishop accepted the terms and pro-
visions of said will, took and held
the one half of said land, and used
the other half so long as they pleased
and until they announced they had
paid all the said testator's debts.

This they then and now as your
female Complainant is advised
they had the legal right to do, and having
taken the benefit of said will they
were bound to perform the duties
assigned them - one of which was
to pay all debts of which the
Legacy to your female Complainant
was one. So far as she knows all
other things have been settled and
paid. She has not received from
them, the horse, saddle, cow or bed
But the mother has given her a
cheap saddle, but it did not

said executors. Your Complainants
~~are~~ advised that said Elijah I. &
Isaac T. Bishop were and trustees
for the benefit of your female com-
plainant, and as such had the
power and it was their duty to
pay said homestead out of the per-
sonal estate, or if not sufficient
to then sell half the land not be-
queathed to them until done. Neither
of them have made any settlement
of their accounts or paid said Legacy.
The object of this bill therefore is
to compel them to account to your
female complainant for said
bequest and to pay the same over
to her. She alleges that a large
amount of personal property
went into their hands, which
was for equal distribution among
all the said heirs after the payment
of said debts. Nancy W. Bishop has
since intermarried with one David
Orr. Lavinia has intermarried with
A. J. Livingston, but your Complain-
ants ask no relief from them nor
are they in any way interested in
this cause, but if so directed they

will make them parties hereto.

The object of this bill is to compel the said Isaac T. Bishop and Elijah S. Bishop to settle and adjust their accounts, of said estate and show what personal property went into their hands, what debts they have paid, how long they rented or used the one half of the land not yet so devised to them, and what amt is due from said estate in their hands for the female complainant, And to compel them to pay to your female complainant, the here, said due and to due her as aforesaid. As before stated some 30 or 40 years ago your complainant were married and thereupon as had been the course with the others she demanded her specific legacy from Elijah S. Bishop Isaac T. having then removed from the country. But the same was not paid.

The premises considered ~~as a~~ complainant's pray that Elijah S. Bishop and Isaac T. Bishop be made parties defendants to this bill and be compelled.

to settle their accounts as aforesaid &
pay the distribution there due your
Compliment as aforesaid. And to
specially pay said specific legacy
to your female Compliment - And
for all other further and General
relief may require.

A. S. Pickens
D.D.

66.16 To Aug. 1886

\$.50

Pr. 5.00

W 15.00

36 75-

\$27.41

JP
J.D. Russell & wife

vs Bill Chy

E. J. Bishop et al

1884 Sept. 25th Bill filed

" Oct. 3rd Ex. D. Chy vs
House Dpts & O.P.

Apr. O. P. brought O. Chy
Confirmed & cause set
for hearing.

1885 Mr. Continued
Aug & Nov Cont'd.

1886. Mr. Decree remand
ing to Rules.

1887 Aug &

To the Hon John A Kelly Judge of the Circuit Court
of Lee county Virginia.

The demurrer and separate answer of
E. S. Bishop to a bill filed in this honorable Court,
against him & Isaac T Bishop by John D &
Russell & Rebecca T Russell his wife.

This respondent says that the bill of the Com-
plainants is not sufficient in law and of this
he prays the judgment of the Court.

But should any further answer be necessary
answering he says, that it is true that the
female Complainant was formerly Rebecca T
Bishop and is a daughter of the late Elijah
Bishop deceased, and she is a sister of this re-
spondent and the said Isaac T Bishop. It is
also true that the said Elijah Bishop before
his death made and published his last will
and testament which was duly admitted to
record, and by which will he devised to this re-
spondent & the said Isaac T Bishop one half of
his land for which they were to decently support
their mother so long as she might live and to
decently support Nancy W Bishop & Rebecca T
Bishop so long as they might remain single.
and said testator also bequeathed to the said
any of his personal property necessary for said support and
Isaac T Bishop & this respondent, the benefit of
the other half of his land and all personal property
necessary for the cultivation thereof, until they
they said Isaac T & Elijah S. should pay all his just

debts, and after the said support of the said Mother & two sisters and the payment of all of testator's just debts, the residue of his personal property and one half of his said land was to be equally divided between certain of his heirs mentioned in said will. Then comes a clause in reference to Robert C Bishop, after which is a bequest to Nancy W Bishop, and then one to Rebecca S Bishop by which she was to have a good horse and saddle and a good cow & bed. And then the testator appoints the said Isaac S Bishop & this respondent Executors of his said last will & testament.

This respondent will now state that his father the said Elijah Bishop, departed this life during the late war, and at the time of his decease this respondent was in Eastern Virginia in the Confederate army, and he remained in the said service until the close of said war, and this respondent never qualified as Executor of said will nor took upon himself the duties of such executor, but he supposes it is true that his brother Isaac S Bishop did, though plaintiffs exhibit does not show the fact. When this respondent returned from the army he and the said Isaac S. continued to carry out the provisions of said will by supporting their mother & sisters Nancy W. & Rebecca S. until the sisters were married, and until said Isaac S. removed from

this country to the State of Texas where he now resides, and this respondent is still taking care of and supporting his aged mother; and this respondent now avers, that under said will, after the payment of all testators debts and after the support of the mother, who is still living, ^{with respondent} and the support of the two sisters as long as they were single, (and the female Complainant did not marry until on the 16th day of Nov. 1881, and lived during all this time with respondent, & generally in very delicate health,) there is in fact not one cent due said female Complainant more than she has already received. And your respondent states that in his opinion ~~his sister~~ it is against the wish of his sister that this state claim is set up, and that it never would have been done except for the inordinate greed of her husband, the male Complainant.

This respondent ^{& said Isaac J.} used and occupied the one half of the land ^{after his return in 1865} until on the day of July 1866. when it was partitioned among the heirs to whom it was devised, the debts having ^{not} all, in fact, been paid at that time, but this respondent & the said Isaac J. agreed to said partition notwithstanding the debts had not all been paid.

Now this respondent avers that the debt of a horse ^{Saddle,} & led to the female Complainant was to be paid by the executors out of the estate, and if she has slept upon her rights until this late

day and permitted the executor to remove his effects from this Commonwealth, which he did about the year 1877, in Feb; she has no remedy, at least against this respondent; and this respondent here now invokes the protection of the Statute of limitations against this state, and as he believes, unreasonable if not unjust ~~claim~~^{demand}, and claims that the Complainant is barred from any relief in the premises. Your respondent will now further state that on his return from the army in 1865, there was but little, if any, of the personal property on the premises left by the testator, and he is informed and believes and accordingly so alleges that the personal property left by his father together with the use of one half of the land for the period used by his brother Isaac L. was entirely insufficient to pay off and discharge the debts of the testator.

It is true that this respondent on the 19th day of December 1882, qualified as Administrator of the estate of the said Elijah Bishop, but this appointment was only for the purpose of collecting a small debt on which he realized, about \$20⁰⁰ and ~~most~~^{some} all of the heirs have ~~agreed~~^{signified a willingness} for him to keep that small sum in his own hands & use it as he is still supporting his mother, and this he is advised he has a perfect right to do and to hold even a great deal more if it was

in his hands for the same purpose, for the
~~suffer and caring for his aged mother, though~~
~~a pleasure with him, is in fact a burden that~~
~~all the heirs should now and for several years~~
~~share in.~~ And now having fully answered
the complainants bill this respondent prays
hence to be dismissed with his reasonable
costs in this behalf expended, and he will
ever pray &c.

Richmond & Orr for
Respondent.

Sworn to before me in due form
by E. S. Bishop March 28 1883-

J. A. Styatt c c

E. J. Bishop

advs. Answer

John D. Russell & wife

Filed in open
Court by leave of the court
March 28/885-

J. A. S. Hyatt & Co

John D. S. Russell & wife
against
E. A. Bishop et al. } In ch.

On the
motion of the plffs in this cause
leave is granted them to amend their
bill, if so advised, as the cause is
remanded to rules for said amend-
ment -

J. D. S. Russell wife
vs Decree

E. S. Bishop et al

March 7. 1886

Entered Mr. J. 1886
on page 674.

J. A. Hyatt & Co

Enter this
March 30. 1886

John D. S. Russell vs. Peffer
vs. against
E. S. Bishop et al. Defts. (L. S. Hay)

This day, A. L. Pindmore personally
appeared before me, and made
oath in due form, "that he verily
believed and ~~was~~ informed, that the
defendant Isaac S. Bishop was
a non resident of the State of
Virginia given under my
hand this 25th Sept 1884
J. A. Hyatt C. C.

J D S Russell Hoise
no 3 Affidavit
E S Bishop et al

Know all men by these presents that I Elijah Bishop, of the county of Lee and State of Virginia, being in full health and of sound mind and memory, do make and publish this my last will and testament, hereby revoking all former wills by me, at any time heretofore made and as to my worldly estate and all the property real personal or mixed, of which I shall die seized and possessed, or to which I shall be entitled at the time of my decease. I devise bequeath and dispose thereof in the manner following to wit: First my will is that Elijah S. Bishop and Isaac S. Bishop shall have one half of my land, for which the above named Elijah S. Bishop and Isaac S. Bishop are to decently support their Mother so long as she may live also to decently support Nancy W. Bishop and Rebecca S. Bishop so long as they remain single, and they Elijah S. Bishop, and Isaac S. Bishop are to have and to hold any of my personal property that will be necessary for their support, and the support of their Mother and the two girls Rebecca and Nancy I also bequeath unto Elijah S. Bishop and Isaac S. Bishop the benefit of the other half of my land and all personal property necessary for the cultivation thereof, until they

Elijah S. Bishop and Isaac S. Bishop pay
off all my just debts. after which the
one half of the land, and all my personal
property, only what is necessary for raising
a support for the family is to be equally
divided between Mary D. Jossee or heirs,
Elisha Bishop, J. P. Bishop, Nancy W.
Bishop, Lavina Bishop, Lucy Thompson, Re-
becca S. Bishop and my Will is that if
Robert L. Bishop, move to the Confederate States,
that that the above named heirs pay to
him money and make him an equal share
with them, Mary D. Jossee or heir Elisha Bishop
J. P. Bishop, Nancy W. Bishop, Lavina Bishop
Lucy Thompson, and Rebecca S. Bishop other-
wise he Robert L. Bishop is to have nothing
Also my will is that Nancy W. Bishop is to have
a good horse and Rebecca S. Bishop is to have
a good horse and saddle, also Nancy and
Rebecca is to have a good cow or piece and
a bed or piece, and lastly I do nominate and
appoint my said sons Elijah S. Bishop and
Isaac S. Bishop to be the executors of this
my last will and testament, In testimony
whereof I the said Elijah Bishop have to
this my last will and testament contained
on this sheet, I have subscribed my name

and affixed my seal, this the twenty ninth
day of March in the year of our Lord, one
thousand Eight hundred and sixty two:
signed sealed published and declared
by the said Elijah Bishop, Elijah Bishop ~~decd.~~
as and for his last will and
testament in the presence of us
who at his request and in
his presence of each other have
subscribed our names as witnesses
thereto, Lifscomb Parrott Jr.
James F. Muncy.

Virginia

At a court begun and held for Lee County at the
Court house thereof, On Monday the 16 day of June ¹⁸⁶²
The last will and testament of Elijah Bishop
deceased was produced in Court by Isaac
L. Bishop one of the executors named there
in, and was proved by the oaths of
Lifscomb Parrott Jr. and James F. Muncy
the subscribing witnesses thereto, and ad
mitted to record:

Teste Henry J. Morgan C.
cl.

Attest

Teste John R. Gibson clerk

Elijah Bishop
3 Copy of Last
Will & Testament

Recorded In Will
Book No 3. P. 43

J. B. Gibson Clk

"A"

Fee for Copy 75¢

The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

WE COMMAND YOU to summon

Isaac T. Bishop and
E. S. Bishop

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first Monday in
October next, being Rule Day, to answer a Bill in Chancery exhibited in our Court against
them, by *John O. S. Russell and Rebecca*
T. Russell his wife

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House,
this *25th* day of *September*, 1884, in the *109* year of the Commonwealth.

J. A. G. Hyatt, Clerk.

A Copy---Teste:

D

John D. S. Russell Esq
203 Spain Way
C. S. Bishop et al

To October Rules 1884

Executed by delin
ring an officer
of this Spa to C. S.
Bishop, Oct 4th
1884. J. H. Ewing
for R. D. Flannery S. L.

Publisher's Certificate.

JONESVILLE, VA., Oct. 3rd, 1884
I, A. M. Gains, Publisher of the LEE COUNTY SUN,
a weekly newspaper published at Jonesville, Lee County, Virginia, do certify that the annexed
Chancery Order was published four successive weeks in said newspaper, publication ending
Oct. 3rd, 1884.

A. M. Gains, Publisher.

VIRGINIA—In the Clerk's office of the
Circuit Court of Lee County, in vacation,
on Friday the 20th day of September, 1884.

IN CHANCERY.

John D. S. Russell and wife, Plaintiffs, vs.
E. S. Bishop, et al., Defendants.

The object of this suit is to compel the defendants to settle their executorial and administration accounts of the estate of Elijah Bishop, deceased, and duly account for all sums which came into their hands as such ex-
ecutors and administrators, and that they ac-
count to the female plaintiff for the specific
legacy, and such sums as may be found due
her from said estate; and it appearing from
an affidavit filed in this cause that the defend-
ant, Isaac T. Bishop, is a non-resident of the
State of Virginia: It is therefore ordered that
he appear here within one month after due
publication of this order and do what may be
necessary to protect his interest in this suit.

A Copy—Teste: J. A. G. HYATT, C. C.
A. L. Pridemore, P. Q.

Pub Fee \$ 5.00

J. D. S. Russell & Co
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E. S. Bishop & Co

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